

# Notice of Allowability

Application No.

10/743,373

Examiner

Leslie R. Deak

Applicant(s)

CARPENTER ET AL.

Art Unit

3761

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 10 October 2006.
2. ☒ The allowed claim(s) is/are 1-24 and 26-43.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date 10/10/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jeffrey Hohenshell on 4 December 2006.

The application has been amended as follows:

#### **IN THE SPECIFICATION, PAGE 1:**

Remove the paragraph between "Reference to Related Applications" and "Field of the Invention" and replace with the following:

--Reference is hereby made to commonly assigned co-pending U.S. Patent Application Serial No 10/473,598 filed on even date herewith for EXTRACORPOREAL BLOOD CIRCUIT AIR REMOVAL SYSTEM AND METHOD in the names of Robert W. Olsen, Walter L. Carpenter, John B. Dickey, Frederick A. Shorey, Laura A. Yonce, and Mark D. Stringham; Serial No 10/743,357 filed on an even date herewith for EXTRACORPOREAL BLOOD CIRCUIT PRIMING SYSTEM AND METHOD in the names of Walter L. Carpenter, Robert W. Olsen, Frederick A. Shorey, Mark G. Bearss, Bruce R. Jones, and Laura A. Yonce; Serial No 10/743,599 filed on an even date herewith for ACTIVE AIR REMOVAL FROM AN EXTRACORPOREAL BLOOD

Art Unit: 3761

CIRCUIT in the names of Robert W. Olsen, Walter L. Carpenter, John B. Dickey, and Mark D. Stringham; and Serial No. 10/743,116 filed on an even date herewith for ACTIVE AIR REMOVAL OPERATING MODES OF AN EXTRACORPOREAL BLOOD CIRCUIT in the names of Robert W. Olsen, Walter L. Carpenter, John B. Dickey, and Mark D. Stringham.--

***Terminal Disclaimer***

2. The terminal disclaimer filed on 10 October 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of application Serial No. 10/743,357 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Reasons for Allowance***

3. Claims 1-24 and 26-43 are allowed.

4. The following is an examiner's statement of reasons for allowance: The prior art fails to disclose or suggest the apparatus claimed by applicant.

In particular, the prior art fails to disclose an extracorporeal tubing set comprising a tubing set and blood treatment components as claimed by applicant wherein the tubing set and components are secured to a mounting apparatus with the specific connections and relative elevations claimed by applicant and the components comprise *both* a VARD and an arterial filter with the claimed purge ports and vacuum lines, along with the other steps and limitations of the claims. While the prior art teaches that it is

Art Unit: 3761

beneficial to suspend the priming solution at a height above the circuit, the prior art fails to teach the relative elevations of the remainder of the treatment components (oxygenator, pump, arterial filter, air removal device) claimed by applicant. Furthermore, applicant discloses that his particular arrangement is necessary to reduce prime volume and to create an easy to use tubing and connection system. Therefore, the instant claims are patentable over the prior art.

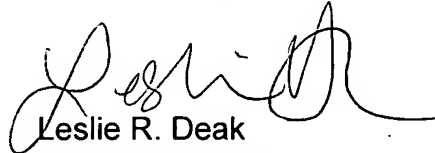
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie R. Deak whose telephone number is 571-272-4943. The examiner can normally be reached on M-F 7:30-5:00, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Leslie R. Deak  
Patent Examiner  
Art Unit 3761  
28 December 2006

**TATYANA ZALUKAEVA**  
**SUPERVISORY PRIMARY EXAMINER**

